one of general importance, in which case he shall refer it to the final decision of the first Judge of such Court.

The Chief Justice shall declare who shall be taxing-officer within the meaning of the first paragraph of this section.

CHAPTER III.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

Fees on documents filed, etc., in Mofussil Courts or in public offices.

6. Except in the Courts hereinbefore mentioned no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Computation of fees payable in certain suits for money;

7. The amount of fee payable under this Act in the suits [1] next hereinafter mentioned shall be computed as follows :—

i. In suits for money (including suits for damages or compensation, or arrears of maintenance of annuities, or of other sums payable periodically)—according to the amount claimed:

for maintenance and annuities.

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

for other

iii. In suits for moveable property other than money, where the subject-matter has a market-

[1] As to the valuation of suits for the purpose of determining the jurisdiction of Courts, *see* the Suits Valuation Act, 1887 (7 of 1887), Genl. Acts, Vol. IV.

moveable property having a market value ; for moveable property of no market-value ;

market-value—according to such value at the date of presenting the plaint :

iv. In suits—

(*a*) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

to enforce a right to share in joint family property ; for a declaratory decree and consequential relief ; for an injunction ; for easements ;

(*b*) to enforce the right to share in any property on the ground that it is joint family property,

(*c*) to obtain a declaratory decree or order, where consequential relief is prayed,

(*d*) to obtain an injunction,

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts ;

(*f*) for accounts—

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought [1] * * * :

for possession of lands, houses and gardens ;

v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter ; and such value shall be deemed to be—

where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and

[1] The words " and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted " were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

and such revenue is permanently settled—

ten times the revenue so payable :

(*b*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid ;

and such revenue is settled, but not permanently—

five times the revenue so payable :

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits :

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood :

(*d*) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above-mentioned—the market-value of the land :

Proviso as to Bombay Presidency.

Provided that, in the territories subject to the Governor of Bombay in Council the value of the land shall be deemed to be—

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment ;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment

assessment to Government—a sum equal to ten times the survey-assessment; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted:

Explanation.—The word "estate", as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or farmer or raiyat shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue:

for houses and gardens;

(*e*) Where the subject-matter is a house or garden—

according to the market-value of the house or garden:

to enforce a right of pre-emption;

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed:

for interest of assignee of land-revenue;

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint:

to set aside an attachment;

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest.

ix. In

ix. In suits against a mortgagee for the recovery of the property mortgaged, — to redeem;

and in suits by a mortgagee to foreclose the mortgage, — to foreclose;

or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage:

x. In suits for specific performance— — for specific performance;

(*a*) of a contract of sale—according to the amount of the consideration:

(*b*) of a contract of mortgage—according to the amount agreed to be secured:

(*c*) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term:

(*d*) of an award—according to the amount or value of the property in dispute:

xi. In the following suits between landlord and tenant:— — between landlord and tenant.

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) to enhance the rent of a tenant having a right of occupancy,

(*c*) for the delivery by a landlord of a lease,

([1])(*cc*) for the recovery of immoveable property from a tenant including a tenant holding over after the determination of a tenancy,

(*d*) to contest a notice of ejectment,

(*e*) to

([1]) This clause was inserted by the Court-fees (Amendment) Act, 1905 (VI of 1905), s. 2 (1), Genl. Acts, Vol. VI.

(*e*) to recover the occupancy of[1] [immoveable property] from which a tenant has been illegally ejected by the landlord, and

(*f*) for abatement of rent—

according to the amount of the rent of the [1][immoveable property] to which the suit refers, payable for the year next before the date of presenting the plaint.

Fee on memorandum of appeal against order relating to compensation.

8. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the[2] acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Power to ascertain nett profits or market-value.

9. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 7, paragraphs 5 and 6, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Procedure where nett profits or market-value wrongly estimated.

10. i. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee: but, if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated.—

ii. In

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[1] These words were substituted for the word "land" by section 2 (*2*) of the Court-fees (Amendment) Act, 1905 (VI of 1905), Genl. Acts, Vol. VI.

[2] *See* now the Land Acquisition Act, 1894 (1 of 1894), Genl. Acts, Vol. IV.

ii. In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

[1]*

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

11. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Decision of questions as to valuation.

12. i. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

ii. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers

[1] Clause (iii) was repealed by the Repealing and Amending Act, 1891 (12 of 1891).

The wording of the clause was as follows—"Section 180 of the Code of Civil Procedure shall be construed as if the words 'the market-value of any property or' were inserted after the word 'ascertaining' and as if the words 'or annual nett profits' were inserted after the word 'damages'."

considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of section 10, paragraph ii, shall apply.

Refund of fee paid on memorandum of appeal.

13. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the [1] Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in [2] section 351 of the same Code for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

14. Where an [3] application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid

[1] *See* now Act 5 of 1908, Genl. Acts, Vol. VI.

[2] The reference to the Code of Civil Procedure, Act VIII of 1859, should now be read as applying to the corresponding provision of Act V of 1908.

[3] As to refund of fees paid on applications to the Chief Court or the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under the Code of Civil Procedure—*see* the Punjab Courts Act, 1884 (18 of 1884), s. 72, as amended by the Punjab Courts Act, 1899 (25 of 1899), Punjab and North West Code.

As to application for review of judgment, *see* the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

paid on the application as exceeds the fee which would have been payable had it been presented before [1] such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

15. Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the [2][application] as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. 1, clause (*b*) or clause (*d*).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

16. [*Additional fee where respondent takes objection to unappealed part of decree.*] *Rep. Act 5 of 1908.*

Multifarious suits.

17. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the [3] Code of Civil Procedure, section 9.

Written examinations

18. When the first or only examination of a person who complains of the offence of wrongful confinement

[1] *See* Sch. I, Nos. 4 and 5, *infra*.

[2] The word "application" was substituted for the original words "plaint or memorandum of appeal," by the Court-fees Act Amendment Act, 1870 (20 of 1870), s. 1, Genl. Acts, Vol. II.

[3] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), Sch. I, Order II, r. 6; Genl. Acts, Vol. VI.

of complainants.

finement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the [1] Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Exemption of certain documents.

19. Nothing contained in this Act shall render the following documents chargeable with any fee :—

i. Power-of attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army not in civil employment.

ii. [*Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*]

iii. Written statements called for by the Court after the first hearing of a suit.

iv. [*Rep. by the Cantonments Act, 1889 (XIII of 1889).*]

v. Plaints in suits tried by [2] Village Munsifs in the Presidency of Fort St. George.

vi. Plaints and processes in suits before District Panchâyats in the same Presidency.

vii. Plaints in suits before Collectors under [3] Madras Regulation XII of 1816.

viii. Probate of a will, letters of administration, [4][and, save as regards debts and securities, a certificate under [5] Bombay Regulation VIII of 1827], where the amount or value of the

[1] This reference should now be read as referring to the Code of Criminal Procedure (Act V of 1898)—*see* s. 3 of that Act, General Acts, Vol. V.

[2] *See* the Madras Village Courts Act, 1889 (1 of 1889), Mad. Code, Vol. II.

[3] Mad. Code, Vol. I.

[4] These words were substituted for the original words and figures "and certificate mentioned in the First Schedule to this Act annexed, No. 12," by the Succession Certificate Act, 1889 (7 of 1889), s. 13 (2), Genl. Acts, Vol. IV.

[5] Bombay Code, Vol. I.

the property in respect of which the probate or letters or certificate shall be granted does not exceed one thousand rupees.

ix. Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

x. Application relating to a supply for irrigation of water belonging to Government.

xi. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.

xii. Application for service of notice of relinquishment of land or of enhancement of rent.

xiii. Written authority to an agent to distrain.

xiv. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

xv. Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearance or otherwise.

xvi. Petition, application, charge or information respecting any offence when presented, made

or

or laid to or before a Police-officer, or to or before the [1] Heads of Villages or the [2] Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.

xvii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

xviii. Complaint of a public servant (as defined in the [3] Indian Penal Code) a municipal officer, or an officer or servant of a Railway Company.

xix. Application for permission to cut timber in Government forests, or otherwise relating to such forests.

xx. Application for the payment of money due by Government to the applicant.

xxi. Petition of appeal against the chaukidari assessment under [4] Act No. XX of 1856, or against any municipal tax.

xxii. Applications for compensation under any law for the time being in force relating to the [5] acquisition of property for public purposes.

xxiii. Petitions presented to the Special Commissioner appointed under [6] Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chota Nagpore*).

xxiv. [Petitions

[1] *See* Madras Regulations XI of 1816 and IV of 1821, s. 6, Mad. Code, Vol. I.

[2] *See* Bombay Village Police Act (8 of 1867), ss. 14, 15 and 16, Bom. Code, Vol. II.

[3] For the Indian Penal Code (Act XLV of 1860), *see* Genl. Acts, Vol. I.

[4] U. P. Code, Vol. I.

[5] *See* now the Land Acquisition Act, 1894 (1 of 1894), Genl. Acts, Vol. IV.

[6] Bengal Code, Vol. II.